

1 THE HONORABLE RICHARD A. JONES  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 APPISTRY, INC., ) Case No. 2:15-cv-01416-RAJ  
11 v. ) Plaintiff, )  
12 AMAZON.COM, INC. AND AMAZON ) ) PLAINTIFF'S RESPONSE TO  
13 WEB SERVICES, INC., ) ) DEFENDANTS' MOTION TO  
14 Defendant. ) ) REASSIGN CASE TO CHIEF JUDGE  
 ) ) MARSHA J. PECHMAN  
 ) NOTING DATE: October 2, 2015  
 )  
 )

15 Plaintiff Appistry, Inc. responds to Defendants' Motion to Reassign This Case to Chief  
16 Judge Marsha J. Pechman (Doc. No. 24) as follows.

17 The statements recited in Defendants' Motion require two important clarifications.  
18 Appistry does not dispute that this is a related case and the patents in this case are related to the  
19 two patents in *Appistry, Inc. v. Amazon.com, Inc., et al.*, Case No. 2:15-cv-00311-MJP (W.D.  
20 Wash.). However, contrary to Defendants' assertion, there are substantial differences in the  
21 facts that the Court considered in the prior case when ruling on Defendants' Motion for  
22 Judgment on the Pleadings. First, the complaint in the instant case includes numerous  
23 additional factual statements which must be taken as true for the purposes of any Rule 12  
24 motion contemplated by Amazon, including statements regarding the two patents-in-suit by an  
25 expert. Second, the presently asserted patents-in-suit contain claims that, while directed to  
26 similar subject matter, recite different and/or additional elements than the previously asserted  
27 patents, thus requiring a different analysis than that in the prior case.

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO  
REASSIGN CASE TO CHIEF JUDGE MARSHA J. PECHMAN - 1  
2:15-CV-01416-RAJ

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1 Appistry believes either Judge Jones or Chief Judge Pechman is acceptable.

2 DATED: September 16, 2015

Respectfully submitted,

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28 **ATTORNEYS FOR PLAINTIFF**  
29 **APPISTRY, INC.**

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 16th day of September, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Executed on the 16<sup>th</sup> day of September, 2015, at Seattle, Washington.

/s/ Jackie Brown  
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